



The Salisbury Planning Board held its regular meeting Tuesday, February 24, 2009, in the City Council Chamber of the Salisbury City Hall at 4 p.m. with the following being present and absent:

**PRESENT:** Karen Alexander, Dr. Mark Beymer, Maggie Blackwell, Robert Cockerl, Tommy Hairston, Richard Huffman, Craig Neuhardt, Valarie Stewart, Albert Stout, and Diane Young

**ABSENT:** Bill Wagoner

**STAFF:** Janet Gapen, Dan Mikkelson, Preston Mitchell, Diana Moghrabi, David Phillips and Patrick Ritchie

This meeting was digitally recorded for *Access 16* television by Jason Parks.

Dr. Mark Beymer, Chair, called the meeting to order and offered an invocation. The minutes of the January 27, 2009, meeting were approved as submitted. The Planning Board adopted the agenda with one change in the order.

Dr. Beymer explained the Courtesy Hearing process and swore in persons who planned to speak during the quasi-judicial hearing.

### **Subdivision**

**S-02-92** Preliminary Subdivision Plat  
Forest Glen, Phases 4 and 5

Patrick Ritchie made a staff presentation.

Phases 1 through 3 are complete and the developer is requesting an extension so that phases 4 and 5 may be completed as originally approved. This plat was approved under the old subdivision ordinance and possessed a valid approval on the effective date of the Land Development Ordinance (LDO). Per the LDO enabling ordinance, the developer may request an extension under the old code that was in effect at the time the plat was approved. In accordance with Section 5.01.1.k of the Subdivision Ordinance, the Planning Board may, at its discretion, require a preliminary plat to adhere to any new requirements before granting the extension.

The plat was approved by City Council with the following modification of standards relating to sidewalks and length of streets:

- Sidewalks are required on both sides of all new streets in the City's zoning jurisdiction. Forest Glen was approved with sidewalk on only one side to match previous construction. The developer has also installed a private greenway trail. Authority to grant relief is provided in Section 5.03.3.a.
- The maximum distance allowed between intersections on new streets is 800 feet. Ardsley Way exceeds this distance but the developer has added a bulb-out with a planted median as an alternative to an intersection. Authority to grant relief is provided in Section 5.05.2.a.

The current request for an extension was reviewed by the Technical Review Committee (TRC) on February 19, 2009, and the committee voted unanimously to recommend approval as submitted.

1. Improvements for drainage, streets, sidewalks, water and sewer must be designed in accordance with City standards and policies. All engineering drawings must be approved by the City prior to construction.
2. Floodway information (particularly minimum building floor elevations) must be provided for the lots that back up the floodplain. This information may be developed during the engineering design phase and must be included on the final plat.
3. All surveying and engineering plans must be tied to the NC State Plane Coordinate System.
4. Erosion control must be provided in accordance with Rowan County regulations. For more information, contact: Rowan County Environmental Services at 704-216-8589.
5. Maintenance of common areas/planted medians shall be in accordance with the same covenants established for earlier phases of Forest Glen.
6. Approval of the preliminary plat will be valid for two years.

No comment from the public. Robert Cockerl made a MOTION to approve. Karen Alexander seconded the motion with all members voting AYE. (9-0) NOTE: Valarie Stewart arrived after this vote.

## **OLD BUSINESS**

Chairman Beymer removed himself for this case since he is employed by a local college. Robert Cockerl acted as Planning Board chair for this text amendment.

### **LDOTA-01-2009      Electronic Signs for Colleges/Universities in IC District**

There have been many months of discussion on this issue throughout 2007. The board's latest action on electronic signage was to suspend any further consideration until the 2009 completion of AASHTO and Federal Highway Administration safety studies surrounding electronic signage and billboards.

In late 2008, a letter was mailed to the city by Catawba College requesting that City Council reconsider this issue. At the December 2, 2008, City Council meeting, City Manager Treme stated that requests regarding electronic signs had been received by Catawba College and Livingstone College. A council committee, consisting of Councilmen Bill Burgin and Mark Lewis, convened on December 9 and December 15, 2008, to discuss the issue and make a recommendation back to City Council; in turn, providing a recommendation to Planning Board for your consideration and return recommendation.

Planning Board received background documentation:

- Planning Board minutes of December 11, 2007
- City Council Committee on Electronic Signs minutes of December 9, 2008
- City Council Committee on Electronic Signs minutes of December 15, 2008
- Proposed text amendment to the Land Development Ordinance (LDO)

Preston Mitchell reviewed the strike-through and underlines for pages 12-8, 12-24, and 18-11 of the Land Development Ordinance.

Page 12-8 proposes that the use of electronic signs for colleges/universities in the IC district shall be limited to ground signs, as sized in the table B.1.b and is prohibited for wall or any other signs. A maximum of one electronic ground sign is permitted per college/university campus. A maximum of 50 percent of the overall ground sign may contain the electronic display. The height of the electronic portion shall not exceed 70 percent of the permitted height of overall ground sign. The electronic display on the sign shall only contain text that does not shimmer, flicker, intensify, or move in any direction and illuminate in white or amber letters on a black field. Any electronic text display shall remain fixed for a minimum of five minutes.

Illuminated signs shall not include electronic signage that utilizes light emitting diode (LED) or liquid crystal display (LCD) technology unless expressly permitted by another provision in the Ordinance or unless used to display time, temperature, and/or fuel pricing.

The Planning Board finds and determines that the following Land Development Ordinance Text Amendment LDOTA-01-2009, Electronic Signs for Colleges/Universities in the IC District, is (is not) consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan, and hereby recommends Approval.

Public comment came from Dr. Mark Behmer, 113 S. Milford Drive, spoke on behalf of himself and Rowan Cabarrus Community College. There are many unique aspects when applying standards to businesses and community buildings. He has concerns about the height and number of signs being proposed.

Colleges have concerns relating to safety, athletic events, and general information. These signs can be used in lockdown situations to alert to a serious event.

Diane Young was originally against this for aesthetic reason (in the historic districts) and was anxiously awaiting the study for safety issues. This proposal is satisfactory and she believed she could vote in favor. She appreciated eliminating moveable copy and limiting the number of signs.

Dick Huffman asked if City Council had directed this to Planning Board. Mr. Mitchell did not think that City Council had ever taken any action on this, but a council committee had been looking at it to propose language. Mr. Huffman said he continues to oppose this type of signage and would prefer to wait for the safety study; a decision before then would be premature. There could be more pressure to have these signs all over the city.

Craig Neuhardt said he was also against the proposed text amendment, but for different reasons. He likes flashing signs; there are places in the community where they are appropriate. We are being overly restrictive. Due to the expense of the signs, not be too many people will be installing these.

Karen Alexander opposed the text amendment and would like to hear from the safety studies-- which was the original reason to table the decision before. The study may help craft a better ordinance.

Maggie Blackwell agreed with Karen Alexander. There are no federal study results and it is only a few months away. Salisbury should wait for those studies.

**Dick Huffman** made a MOTION, "The Planning Board finds and determines that denial of the following Land Development Ordinance, Text Amendment LDOTA-01-2009, Electronic Signs for Colleges/Universities in the IC District, is consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan, and hereby recommends Denial. Once the studies come back and we have more information we can always put it back on the agenda." **Albert Stout** seconded the motion. Albert Stout, Maggie Blackwell, Karen Alexander, Craig Neuhardt and Dick Huffman voted in favor of the motion to deny. Valarie Stewart, Tommy Hairston, Diane Young, Robert Cockerl voted against the motion to deny. (5-4 to deny)

Chairman Mark Behmer returned to the dais.

## **NEW BUSINESS**

### **A. Amendment to 1999 "S" District Ordinance to Revise Building Setbacks**

- Swear in those persons testifying at courtesy hearing
- Present evidence--courtesy hearing
  - Receive testimony from staff
  - Receive testimonies from opponents and proponents
- Findings of facts
- Statement of Consistency
- Recommendation to City Council

**Z-24S-99** Lone Hickory Village Subdivision  
Petitioner(s): JFM Properties, Inc.  
Address: Unnumbered Morlan Park Road  
Tax Map - Parcel(s): 065-409, portion of 065-313  
Size / Scope: Approximately 7 acres (2 parcels)

Request to amend the existing 1999 S-District ordinance (1999-91) that rezoned the subject site for the Lone Hickory Village Subdivision, a 21-lot subdivision with two new dead-end public streets off of Morlan Park Road.

The request specifically relates to building setbacks. No other change is proposed as part of this petition. The petitioner is now seeking to expand the building envelopes of all 21 lots by reducing the building setbacks. The currently approved setbacks are as follows:

Lots 1-14, 18-21:

Front: 25'

Side: 5'

Rear: 15'

Side Street: 15' (off Morlan Park Rd)

Side Street: 15' (off Mathis Ave)

Lots 15-17: (the lots conditioned to carry R-8 setbacks)

Front: 40'

Side: 10'

Rear: 25'

The proposed setbacks for ALL lots under this request are as follows:

Front: 10'

Side: 5'

Rear: 10'

The City's Technical Review Committee convened on February 19, 2009 and discussed this item. The TRC had concerns that the new rear setback would be less than the 15-foot landscape buffer. In addition, staff informed the TRC that neighbors began calling after public notices were mailed to express concern for the significantly reduced setbacks.

Based on this, the petitioner (Mr. Mathis) offered to increase the rear setback to 15 feet to match the landscape buffer.

**The official TRC recommendation is as follows: All principle-building setbacks should be:**

**Front: 10'**

**Side: 5'**

**Rear: 20'**

**Accessory structures should be located only in the side or rear yards and meet the following accessory structure setbacks:**

**Side: 5'**

**Rear: 15'**

*No one presented evidence in opposition.*

*Those offering evidence in favor:*

Joe Mathis, 803 N. Main Street, Granite Quarry, said he is inclined to take the advice of the Technical Review Committee.

Findings of Fact

1. That the proposed use or development of the land will not materially endanger the public health or safety and will not substantially injure the value of adjoining or abutting property;
2. That the proposed use or development of the land is reasonably consistent with the strategic plan, comprehensive plan, and other official plans adopted by the city;
  - a. The development of this previously approved subdivision is not entirely consistent with the goals, objectives, and policies of the Vision 2020 Plan (they do not provide connectivity), but the provision of sidewalks, compact development, and protection of the environmentally sensitive lands clearly conforms to the plan.
3. That the proposed use or development of the land is reasonably compatible with significant natural and topographic features both on the site and within immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant;
  - a. There are no significant topographic features on the land, but the previously approved plan does work to protect the floodplain areas to the north of the site.
4. That the proposed use or development of the land will be visually and functionally compatible with the scale, bulk, coverage, and character of the area or neighborhood in which it is located;
  - a. The proposed density of the previously approved plan (3.1 units/acre) is consistent with the low to medium-low density of the surrounding residential area.

5. That adequate provisions and design have been made or will be made to ensure automotive and pedestrian safety and convenience, inter- and intra-connectivity, traffic flow and control, emergency vehicle access, and adequate ingress and egress; and
  - a. Inter- and intra-connectivity is not provided in the previously approved plan; however, sidewalks have been provided on all new streets and those streets provide smooth ingress and egress onto Morlan Park Road for all emergency and non-emergency vehicles.
6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities, and that adequate provisions have been or will be made to reasonably address any adverse impact on such facilities.
  - a. The previously approved plan provides adequate water and sewer extensions to the entire development.

**Karen Alexander** made the following MOTION, “Based on the TRC recommendation, Planning Board finds and determines that Z-24S-99, Lone Hickory Village Subdivision is consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan, and hereby recommends approval. The MOTION was seconded with all members voting AYE.” (10-0)

## **B. District Map Amendment**

**CD-5-01-2009**     Matika Villa Mobile Home Park  
 Petitioner(s): Timothy Smith  
 Address: 154 Sarah Ellen Lane  
 Tax Map–Parcel(s): 469-025, 469-059, 469-060, 469-045000001  
 Size / Scope: Approximately 39 acres (4 parcels)

Preston Mitchell made a staff presentation. The request is to amend the Land Development District Map by rezoning approximately 39 acres (4 parcels) from URBAN RESIDENTIAL (UR12) to MANUFACTURED HOME DISTRICT (MHD) and establishing a Conditional District (CD) Overlay.

The owner/operator (petitioner) of the mobile home park is not proposing any development at this time. He is aware that if he ever seeks to expand the park, an amendment to the Conditional District (CD) Overlay must be processed.

Even though the petitioner is not proposing any development at this time, he must still submit a Master Plan as part of the CD Overlay request. The CD overlay is required for MHD base district zoning. The submitted plan has a note stating that no

new development, additional units, or physical changes to any existing structures or parcels is proposed as part of this CD overlay adoption.

The 39-acre property is currently developed with 90 mobile home units with an overall density of 2.3 units per acre. In addition, the petitioner purchased the former church property and proposes to use those buildings as a community center for the home park.

No one spoke in opposition.

Tim Smith, owner of Matika Villa Mobile Home Park, spoke in favor of getting the zoning “in line.” Since it is a mobile home park, it needs to be zoned that way.

**Robert Cockerl** made the following MOTION and statement of consistency. “The Planning Board finds and determines that the following CD-5-01-2009, Matika Villa Mobile Home Park, is consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan, and hereby recommends approval. **Dick Huffman** seconded the motion with all members voting AYE. (10-0)

### C. LDO Text Amendments

#### (1) **LDOTA-03-2009** Appendix C Flood Damage Prevention Ordinance

Patrick Ritchie made a staff presentation.

The City of Salisbury’s Land Development Ordinance (LDO) was adopted by City Council December 18, 2007. The ordinance included Appendix C which is based upon the State of North Carolina’s model Flood Damage Prevention Ordinance. At the time of adoption, the City was utilizing the initial Flood Insurance Rate Maps (FIRMs) that were issued by FEMA in 1979 and 1980. The City has been working with the State of North Carolina and FEMA to develop new FIRMs, but these maps were still in the preliminary stages and could not be adopted for use with the initial LDO. The initial maps and a placeholder for the adoption date of the new maps are referenced on Page 7 of Appendix C.

The State of North Carolina and FEMA have now authorized and required the City to use new mapping that was recently issued by the State. These maps must be formally adopted and referenced in our LDO for Salisbury to remain active in the National Flood Insurance Program (NFIP). The State has advised Salisbury to amend the ordinance using a date of June 16, 2009, for the final approval of the pending FIRMs.

The following changes were approved by the TRC February 19, 2009, to amend Appendix C as required and correct some minor errors that have come to our attention:



- Page 1–For clarity to the State, we have replaced “LDO” with “Land Development Ordinance” and added “for City of Salisbury, North Carolina” to the title.
- Page 6–Remove errant parentheses “)” from end of Substantial Damage definition.
- Page 7–Replaced “(insert DATE of final approval of pending FIRMs)” with “June 16, 2009.
- Page 12–Removed errant “(OPTIONAL)” from end of item (13).
- Page 23–Add adoption dates and certification dates...Currently adoption date is 18<sup>th</sup> day of December 2007. NOTE: This date will be replaced with date of final City Council approval of this revision (to be determined). Certification date should be the same.

No Public Comment.

**Diane Young** made the following MOTION and Statement of Consistency. “The Planning Board finds and determines that the following Land Development Ordinance Text Amendment **LDOTA-03-2009** Appendix C Flood Damage Prevention Ordinance is consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan, and hereby recommends approval.” **Karen Alexander** seconded the motion with all members voting AYE. (10-0)

## **(2) LDOTA-04-2009** Revisions to HPC Guidelines

Janet Gapen gave a staff presentation; the Planning Board received a draft copy of the proposal with strike-throughs and underlines.

The amendments propose to add new provisions regarding Certificates of Appropriateness (COA) to Chapter 15 of the Land Development Ordinance. Section 15.7.D pertains to activities that do not require a COA. Item numbers 10-13 have previously received a blanket approval by the HPC. Adding these items to the ordinance will make them a more permanent part of the record. Item number 14 will allow for temporary art or sculpture displays that meet specified requirements. (Freestanding displays limited to 12 months) The final change, under Section 15.3, adds specific notification requirements for COAs.

At their February 19 meeting, the Historic Preservation Commission recommended approval of these changes by a unanimous vote.

**Dick Huffman** made the following MOTION and Statement of Consistency. “The Planning Board finds and determines that the following Land Development Ordinance Text Amendment **LDOTA-04-2009**–Revisions to HPC Guidelines is consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan, and hereby recommends approval.” **Karen Alexander** seconded the motion with a members voting AYE. (10-0)

**(3) LDOTA-05-2009** Lot Depth in DMX

Preston Mitchell made a staff presentation.

The DMX (downtown) district prohibits “house” building types because the intent of the DMX district is to densify and intensify with a mix of compatible uses.

Roughly nine “house” types existed in the DMX district prior to adoption of the Land Development Ordinance (LDO). Because they are each occupied for various uses, the LDO must establish dimensional provisions for them regardless of their non-conforming status. The UR (Urban Residential) dimensional provisions are used for these non-conforming House types in the DMX district. The problem with using UR dimensional provisions in the DMX is that any House type lot must be a minimum of 100 feet in depth. We argue that this is unreasonable and in conflict with the ordinance based on their existing, non-conforming status and the intent of development in the DMX district.

The LDO and Vision 2020 Plan intends to densify and intensify our downtown. Most buildings in the downtown – ignoring the ancillary surface parking – fully cover the lot they sit upon. It is critical to provide public open spaces in the downtown and similar high-intensity areas.

This proposal will retain use of the UR dimensional provisions for non-conforming “house” types in the DMX, but it will not require a minimum lot depth of 100 feet. Staff and TRC recommend this amendment.

*No public comment*

**Valarie Stewart** made the following MOTION and Statement of Consistency. “The Planning Board finds and determines that the following Land Development Ordinance Text Amendment **LDOTA-05-2009**–Lot Depth in DMX is consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan, and hereby recommends approval.” **Albert Stout** seconded the motion with a members voting AYE. (10-0)

## COMMITTEES

### Rules of Procedure Committee

#### Chair & Vice Chair

Robert Cockerl agreed to serve as the 2009 /2010 Planning Board Chair and Richard (Dick) Huffman agreed to serve as the Planning Board Vice Chair. Craig Neuhardt will continue to be the Technical Review Committee (TRC) representative. All members were in favor of the

committee recommendation. (10-0) The chair and vice chair will be sworn in at the next Planning Board meeting in April.

### Legislative

Mark Beymer will be chair until the end of March. It takes two meetings to amend the Rules of Procedure so the Planning Board will act on this March 24, 2009.

Currently, three minutes are allocated to the petitioner to cover anything not covered in the staff presentation. Those speaking in opposition get an opportunity to speak; then, those speaking in favor get an opportunity to speak. (The Council Chamber is equipped with a three-minute clock/timer for each speaker.) Petitioners have been getting an opportunity to rebut before the Board discussion. The Board often has Q & A before making a decision.

Three out of four members of the committee agreed. Mark Beymer did not support the last part of the committee recommendation. It was then amended; members of the committee agreed to recommend a staff presentation followed by a maximum three-minute presentation by the petitioner before the public (con or pro) speaks their maximum three minutes. The petitioner could come back a maximum of three minutes at the end to rebut or provide information relative to the petition.

It was then amended, and all committee members agreed, that the petitioner could have a maximum of six minutes that could be taken at once at the end of the courtesy hearing (not at the beginning), or split a maximum of three minutes in the beginning of the courtesy hearing (after the staff report) and a maximum three minutes at the end of the courtesy hearing for a total of six minutes maximum. It is the petitioner's choice. (3&3 or 0&6) With this there was a unanimous agreement with the committee.

### Quasi-Judicial

This is an evidentiary hearing and not a courtesy hearing. It is the legal responsibility of the petitioner to provide evidence. The explanation card will change; opinions are not sought in quasi-judicial hearings. Site plans are a requirement of the LDO and will now be a part of every Special Use Permit application.

Mark Beymer made a MOTION that the petitioner is to be granted six minutes to present their evidence up front. The petitioner must bring their evidence in writing that they meet the standards. They may be invited back at the end at the discretion of the Board. Individuals from the public could then present their evidence to either support the claim of the applicant or to say "no, I have this evidence." The public has a maximum of three minutes each to provide evidence. Karen Alexander seconded the motion with all members voting AYE. (4-0)

The committee discussed cross-examination. Attorneys are not sworn in because they are not giving evidence. Mark Beymer prefers the order of con and pro. Planning Board determines whether evidence offered is sufficient.

Page four of the Rules of Procedure will change under Board Committees: *The general purpose of committees may be to study and make a report and/or recommendation on a Land Development Ordinance (LDO) map amendment or LDO text amendment.*

Page 2 (B) Election of officers (1) Planning Board officers shall be elected in February of each year. Officers shall take office in April of each year.

The Rules of Procedure Committee is recommending these changes or revisions regarding Courtesy Hearings and Evidentiary Hearings, the date Planning Board officers take office and updating the general purpose of committees, to the Salisbury Planning Board Rules of Procedure.

Preston updated changes that came as a result of the new LDO.

**Craig Neuhardt** did not agree with the change to give the petitioner more time. The petitioner has (in most cases) financing, the experience, has spent more time with staff, etc.-- when a member of the public does not have as much understanding of the process. This deserves more conversation.

## **OTHER BOARD BUSINESS**

Diane Young asked if she could bring her laptop instead of bringing print materials to the meeting. It is welcome.

The next Planning Board meeting will be March 24, 2009.

There being no further business to come before the Planning Board, the meeting was adjourned at 6:00 p.m.

---

Dr. Mark Beymer, Chair

---

Diana Moghrabi, Secretary